



**U.S. Customs and  
Border Protection**

January 31, 2012

DIS-2-OT:FD ALK  
2012F11028

MuckRock News  
DEPT MR 1057  
P.O. Box 55819  
Boston, MA 02205-5819

Dear Mr. Michael Morisy:

This is in reply to your request dated January 30, 2012 to U.S. Department of Homeland Security (DHS) referred to U.S. Customs and Border Protection (CBP). You are requesting a copy of records regarding the alleged arrest, investigation, or detainment of Leigh Van Bryan and Emily Bunting by DHS in January 2012.

DHS regulations require, in the case of third party information requests, a statement from the individual to whom the record pertains verifying his or her identity and certifying that individual's agreement that records concerning him or her may be accessed, analyzed and released to a third party. See 6 C.F.R. § 5.21(f). Specifically, we need the authorization from the person whose records you seek to include his/her date of birth and his/her signature needs to be either notarized or his/her request must be submitted under Title 28 U.S.C. §1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. Because you have not provided this documentation with your request, we are unable to initiate a search for responsive records.

Because your request is not perfected we are unable at this time to make a determination regarding your request for a fee waiver. Please be advised the DHS FOIA Regulations, Title 6 C.F.R. § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We considered these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government;"
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant;"

- (5) Whether the requestor has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.


As a requestor, you bear the burden under the FOIA of showing that the fee waiver requirements have been met.

Please provide the requested documentation within 30 days from the date of this letter, or we will assume you are no longer interested in making a Freedom of Information Act (FOIA) request, and the case will be administratively closed. If you would like more information about making a FOIA request to CBP you can access *Customs and Border Protection FOIA Reference Guide* at [www.cbp.gov/xp/cgov/admin/fl/foia/](http://www.cbp.gov/xp/cgov/admin/fl/foia/).

This is not a denial of your request. Upon receipt of a perfected request, you will be advised as to the status of your request.

You may contact this office at (202)325-0150.

Sincerely,

  
Dorothy Pullo  
Director, FOIA Division  
Office of International Trade